

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DUSTIN JAMES MILLER,

Petitioner,

Case No. 1:08-cv-37

v.

HONORABLE PAUL L. MALONEY

BARRY DAVIS,

Respondent,

\_\_\_\_\_ /

**ORDER ADOPTING MAGISTRATE JUDGE'S  
REPORT AND RECOMMENDATION**

The Court has reviewed the Report and Recommendation (Dkt. #30) filed by United States Magistrate Judge Joseph G. Scoville in this action. The Report and Recommendation was duly served on the parties. No objections have been filed.

ACCORDINGLY, the Report and Recommendation is hereby adopted as the opinion of the Court.

**THEREFORE, IT IS ORDERED** that respondent's motion for summary judgment (Dkt. #17) is **GRANTED** for the reasons stated in the Report and Recommendation.

**IT IS FURTHER ORDERED** that the habeas corpus petition (Dkt. # 1) is **DISMISSED** as untimely.

**IT IS FURTHER ORDERED** that a certificate of appealability is **DENIED**.

**This action is terminated.**

Date: February 9, 2009

/s/ Paul L. Maloney  
Paul L. Maloney  
Chief United States District